IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PTITION NO.1587 Of 2006

Mr Mukesh Shah, .. Petitioner.
Vs
Mr Jitendra Vora & Anr. .. Respondents.

Ms. Rekha Tawade i/b M/s M.V.Kini & Co, for the petitioner.
Mr P.A.Pol, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.

DATED : 14.08.2006

P.C.:

1. Heard Ms Tawade, learned counsel for the petitioner and Mr Pol, learned APP for the respondent.

2. By this petition, the petitioner has prayed for quashing of the order "issue process" passed by the learned Magistrate in the case under section 138 of the Negotiable Instruments Act filed by the respondent company. The challenge is mainly on the ground that the petitioner was a dormant partner of the respondent-firm and was not in-charge or conduct of the business of the firm. On the last occasion, the learned counsel for the petitioner was directed to place on record a copy the partnership deed, as also the power of attorney executed in favour of accused no.4-Yogesh Shah. I perused the partnership deed as also the power of attorney. After perusal of both these documents, I am unable to accept the submission of the petitioner that the petitioner was a sleeping

partner and was not incharge and responsible for the affairs of the business of the respondent- firm. Hence, the writ petition is dismissed. It is open for the petitioner to apply for exemption before the trial Court. If such an application is filed by the petitioner, same may be decided in the light of the judgment of this case in Bhaskar Sen Vs State of Maharashtra, 2004 (4) ALL M R 606.

(D.B.BHOSALE,J.)